

REMARKS

Claims 3-11 and 13-25 remain in this application. Claims 1, 2 and 12 have been canceled. Claims 3-11 and 13-17 have been amended. Claims 26-29 have been withdrawn.

Claim 9 has been amended to add the limitations of claims 1 and 2, making claim 9 subject to a 35 U.S.C.103(a) obvious rejection instead of a 35 U.S.C.102(b) anticipated rejection.

Claim 13 has been amended to add the limitations of claims 12, making claim 13 subject to a 35 U.S.C.103(a) obvious rejection instead of a 35 U.S.C.102(b) anticipated rejection.

Reconsideration of this application is requested. Claims 1-25 were rejected under 35 U.S.C.112 second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Applicant has amended claims 3-5, 7-11 and 13-17 to clarify that the claims are not inclusive of the glass bottle.

Claims 1, 2 and 4 were rejected under 35 U.S.C.102(b) as being anticipated by Jamison in U.S. Patent No. 2,480,247. This rejection is respectfully traversed. Claims 1 and 2 have been canceled, no longer claiming matter which formed the basis for the examiners rejection. Claim 4 now depends upon claim 9.

Claims 1-7, 12, 16-18, 21 and 22 were rejected under 35 U.S.C.102(b) as being anticipated by Schroeder, Jr. et al. in U.S. Patent No. 4,300,612. This rejection is respectfully traversed. Claims 1 and 2 have been canceled, no longer claiming matter which formed the basis for the examiners rejection. Claim 3-7 now depend upon claim 9.

Claim 12 has been canceled, no longer claiming matter which formed the basis for the examiners rejection. Claim 16-18, 21 and 22 now depend upon claim 13.

Claims 1, 2, 12, 16 and 23 were rejected under 35 U.S.C.102(b) as being anticipated by Maloney, Jr. in U.S. Patent No. 4,114,759. This rejection is respectfully traversed. Claims 1-7, 12, 16-18, 21 and 22 were rejected under 35 U.S.C.102(b) as being anticipated by Schroeder, Jr. et al. in U.S. Patent No. 4,300,612. This rejection is respectfully traversed. Claims 1 and 2 have been canceled, no longer claiming matter which formed the basis for the examiners rejection. Claim 3-7 now depend upon claim 9.

Claim 12 has been canceled, no longer claiming matter which formed the basis for the examiners rejection. Claim 16 and 23 now depend upon claim 13.

Claims 12, 16 and 19-20 were rejected under 35 U.S.C.103(a) as being unpatentable over Jamison in U.S. Patent No. 2,480,247 in view of Velasco et al. in U.S. Patent No. 4,813,541. This rejection is respectfully traversed. Claim 12 has been canceled, no longer claiming matter which formed the basis for the examiners rejection. Claims 16 and 19-20 now depend upon claim 13.

Relative to claim 16 the examiner contends that Jamison disclosed all of the limitations of the base claim, which is now claim 13, except for having a set of shock absorbing protrusions to interface with the bottle cap. Applicant in the now amended base claim 13 differs in that Jamison teaches only a vacuum bottle that has a cap. No vacuum bottle is included in the instant invention, the shock absorbing protrusions projecting from the base significantly differ from Jamison's cushioning rings, and Velasco et al. also only use discs. Applicant further limits the invention to having a sensor in a cavity, while Jamison has no such cavity and sensor. This limitation by itself is sufficient for the applicant to define over Jamison. Velasco et al. do not refer to any sensors in their tamperproof package. Claim 16 further limits the invention by its narrowing the requirements to protect a glass bottle containing toxic injectable medication. Velasco et al. do not specifically indicate that their packaging is for injectable medications.

Relative to claims 19-20 the examiner contends that these limitations are simply a matter of design choice, however neither Jamison or Velasco et al. have indicated the

desirability of such structure, therefore there can be no prima facie obviousness merely because the prior art can be modified to the claimed form without a suggestion of its desirability.

Claims 8 and 24 were rejected under 35 U.S.C.103(a) as being unpatentable over Schroeder, Jr. et al. in U.S. Patent No. 4,300,612 in view of Burdick in U.S. Patent No.5,695,090. This rejection is respectfully traversed.

Relative to claim 8 the examiner indicated that Schroeder, Jr. et al. disclosed all of the limitations of the base claim except for the container being constructed from color-tinted plastic. The base claim 9 as amended now contains a sensor inserted into a cavity. Schroeder, Jr. et al. have no such cavity and sensor. This limitation should be sufficient for the applicant to define over Schroeder, Jr. et al., as their enclosure has no such structure nor functional utility. Burdick's disclosed impact resistant insulating bottle container has no such teaching. As far as the limitations of claim 8, in regards to the color-tinted plastic, Burdick mentions the light protection as follows: "*Advantages for the container 100 include low cost, small size for convenience, easy viewing of medicine bottle contents, protection from damage to medicines from light,*—" col.5 lines 46-49. It appears that the "*--color-tinted plastic to indicate the type of medication contained in a glass bottle.*" of claim 8 is completely different in structure and purpose, and Burdick only mentioned protection from light with no color tint indicated, with no claims or structure indicated in his specification.

In relation to claim 24 the same argument is presented as above to the color tint, however claim 24 now depends upon claim 13 which has also been amended to add the limitation of a sensor inserted into a cavity. Schroeder, Jr. et al. have no such cavity and sensor. This limitation is sufficient for the applicant to define over Schroeder, Jr. et al, as their enclosure has no such structure nor functional utility. Burdick's disclosed impact resistant insulating bottle container has no such teaching.

Claims 9, 11, 13 and 15 were rejected under 35 U.S.C.103(a) as being unpatentable over Schroeder, Jr. et al. in U.S. Patent No. 4,300,612 in view of Tryba in U.S. Patent No.6,112579. This rejection is respectfully traversed.

Relative to claim 9 the examiner indicated that Schroeder, Jr. et al. disclosed all of the limitations of the base claim except for the container having a sensor cavity into which is inserted an audible signal leakage sensor. The base claim 9 as amended already contains a sensor inserted into a cavity. Schroeder, Jr. et al. have no such cavity and sensor. This limitation should be sufficient for the applicant to define over Schroeder, Jr. et al. as their enclosure has no such structure or functional utility. Again there can be no obviousness simply because the prior art may be modified to the claimed form without a suggestion of its desirability. Schroeder, Jr. et al. have made no suggestion of adding a cavity with a sensor to their invention and lacking this implication the rejection should be overcome.

Relative to claim 11 it is true that Tryba provides a fluid leaking sensor with an electrically conductive or non-conductive container that when fluid comes in contact with a conductive coating a pulse is created and could provide an audible signal, however since Schroeder, Jr. et al. have no such teachings, to combine the limitations of Tryba would not necessarily be obvious to Schroeder, Jr. et al.

Claim 13 has been amended to include the sensor and cavity, therefore for the same reasons discussed previously the claim is no longer obvious over Schroeder, Jr. et al. in view of Tryba.

Claim 15 adds the limitation that the sensor produces an audible signal. Tryba teaches an audible signal, however the structure and function is entirely different, therefore it is submitted that the applicant's invention distinguishes over Schroeder, Jr. et al. in view of Tryba.

Claims 9-10 and 13-14 were rejected under 35 U.S.C.103(a) as being unpatentable over Schroeder, Jr. et al. in U.S. Patent No. 4,300,612 in view of Velasco et al. in U.S. Patent No. 4,813,541. This rejection is respectfully traversed

Relative to claim 9 the examiner indicated that Schroeder, Jr. et al. disclosed all of the limitations of the base claim except for the container having a sensor cavity into which is inserted an audible signal leakage sensor. The base claim 9 as amended already contains a sensor inserted into a cavity. Schroeder, Jr. et al. have no such cavity and sensor. This limitation should be sufficient for the applicant to define over Schroeder, Jr. et al. as their

enclosure has no such structure or functional utility. Again there can be no obviousness simply because the prior art may be modified to the claimed form without a suggestion of its desirability. Schroeder, Jr. et al. have made no suggestion of adding a cavity with a sensor to their invention and lacking this implication the rejection should be overcome.

Claim 10 claims a water soluble leakage sensor which is completely different in structure and purpose than Velasco et al., as their sensor reverts to its original color as a loss of atmospheric pressure in their hermetic chamber. The difference is sufficient for applicant to distinguish over this prior art.

Claim 13 has been amended to include the sensor and cavity, therefore for the same reasons discussed previously the claim is no longer obvious over Schroeder, Jr. et al. in view of Tryba.

Claim 14 claims a water soluble substance that produces a visible color when the substance is dissolved into a leakage of liquid medication contained in a bottle. Tybra, on the other hand, teaches fluid leaking sensor with an electrically conductive or non-conductive container that when fluid comes in contact with a conductive coating a pulse is created and could provide an audible signal. Applicant does not claim this specific limitation and when taken in view of the base claim the rejection is deemed overcome.

Claim 25 was rejected under 35 U.S.C. 103(a) as being unpatentable over Schroeder, Jr. et al. in U.S. Patent No. 4,300,612 in view of Miller et al. in U.S. Patent No. 5,860,550. This rejection is respectfully traversed.

Claim 25 is dependent upon amended claim 13 which has already been discussed in length. The examiner contended that it would be obvious for Schroeder, Jr. et al. to combine Miller et al.'s teachings that shrink wrap would be desirable to protect the container from tampering. It is true that shrink wrap is used almost universally to protect all kinds of goods, however Schroeder, Jr. et al. must find this element desirable, not Miller et al., to make such a combination and nowhere is this addition suggested.

Withdrawal of the rejection is respectfully requested and allowance of the instant application is solicited.

No additional fee is deemed necessary at this time.

Respectfully Submitted,



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